



City of Rochester

Department of Law
City Hall Room 400A, 30 Church Street
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John Campolieto
Municipal Attorney

July 26, 2021

SENT VIA HAND DELIVERY AND ELECTRONIC MAIL

Charles L Burkwit
Burkwit Law Firm, PLLC
16 East Main Street, Suite 450
Rochester, New York 14614

Re: Silvon S. Simmons v. City of Rochester, et al.
17-CV-6176-MAT-MWP

Dear Mr. Burkwit:

The City provided its Supplemental Response to Plaintiff's First Request for Production of Documents 1 (dd) and (ee) on June 23, 2021, which consisted of 26,796 pages of documents, detailing force complaints existing in the Professional Standards Section for all officers, retired and currently employed, from 2010 through 2020. Prior to that supplemental response of June 23, 2021 the City produced 4,866 bates stamped COR000001 through COR004866, the complete audio and video files for both the Simmons litigation and all police force complaints from 2010 through 2020 and 21,556 pages of Mobile Data Terminal information. On July 14, 2021 you sent a comprehensive letter stating that the documents provided fall far short of your request. Please note that the shared file and external drive sent to you consisted of all located documents, video and audio files for force complaints existing in the Professional Standards Section for all officers, retired and currently employed, from 2010 through 2020.

After your letter of July 14, 2021, I requested that the Coordinator of the Professional Standards Section do an additional review of the department's files to determine if all records have been identified and sent to me. An additional two (2) force complaints were identified and are being sent to you in a shared file with 1,028 documents bates stamped as COR_UOF_025948 through COR_UOF_26976. The two cases were misfiled but the



mistake was noticed and corrected during the current review and those cases are included as COR_UOF_025948 through COR_UOF_26976.

The review of your letter by PSS indicates that what you think is missing could be due to the following misunderstandings of our system:

- Reports in our concise officer histories list when force was used, and an SRR report was completed. This does NOT mean that a complaint was filed, nor that an investigation was initiated, merely that use of force occurred and an SRR was recorded.
- Using Professional Standards Section Annual Report numbers is not a comparison that can be used when reviewing these records.
- Professional Standards Section's Purge and Retention Policy has previously been provided to you but is attached to this letter for your convenience. Summarized, the relevant parts of the retention policy are that complaint investigations are purged after 5 years if the investigation of the complaint finding was exonerated, unprovable and/or unfounded. Sustained findings are kept for the duration of an officer's career and purged 3 years after retirement. Many of these matters no longer exist in our records.
- Finally, complaints which are not followed through on or completed by a complainant are not kept in our records in an easily searchable format nor investigated and are purged after 5 years. Also, the PSS Annual Report includes a category of allegations but that is not a useful number to use for comparison because 1 complaint could include numerous allegations against numerous officers.

I again remind you that these documents (all in the shared file) are marked and deemed confidential per the Stipulated Protective Order signed by the parties and the Court on April 8, 2020.

Sincerely yours,

/s/

John Campolieto,
Municipal Attorney

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PSS Purge List From Incident Date

All Shootings

Keep forever

Vehicle Pursuits

5 Years if complied with policy.

If Memorandum issued, 6 Years after Retirement. Longer if serious incident.

Fleet Vehicle Accidents

6 Years

If at fault, Memorandum

6 Years after termination of employment

Subject Resistance Reports

6 Years

Sustained Cases (with discipline)

3 Years after termination of employment

Sustained cases (with memorandum)

6 Years after termination of employment

Exonerated, Unfounded, Officed,

5 Years

Unprovable, Incident Reviews,

Destroyed animals (other firearm

Discharges (not at human), Admin

Entries.

Conciliation – Immediately unlink

3 Years after final decision rendered

The Officers name, it will be

Saved under citizen name only.

Memorandums

6 Years after termination of employment

Command Discipline

1 Year or as required by CBA

Judicial Subpoenas, Brady-Giglio

5 Years – original signed / 3 Years - copies

Additional employment

3 Years

Background Investigations

6 Years after termination of employment

Civil Cases

6 Years after case is closed

Personnel Orders

6 Years after termination of employment

Special Orders

6 Years

Updated 04/2017

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